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10/820,979	04/07/2004	Sean Christopher Endler	81490 7114	9035

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EXAMINER
THERIAULT, STEVEN B

ART UNIT	PAPER NUMBER
2179	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *19 June 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-23* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-23* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This action is responsive to the following communications: RCE filed 06/19/2007

2.   Claims 1 -23 are pending in the case. Claims 1, 12, 13, 17, and 22 are the independent claims.

Claim 23 is a new claim.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR

1.17(e), was filed in this application after final rejection. Since this application is eligible for

continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been

timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR

1.114. Applicant's submission filed on 06/19/2007 has been entered.

Claim Rejections - 35 USC § 102

3.   **The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the**

basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b),
by another filed in the United States before the invention by the applicant for patent or (2) a
patent granted on an application for patent by another filed in the United States before the
invention by the applicant for patent, except that an international application filed under the treaty
defined in section 351(a) shall have the effects for purposes of this subsection of an application
filed in the United States only if the international application designated the United States and
was published under Article 21(2) of such treaty in the English language.

4.   **Claims 1-23 are rejected under 35 USC 102(e) as being anticipated by Fitzmaurice et al**

(hereinafter Fitzmaurice) U.S. Patent Publication No. 2004/0212617 issued Oct. 28, 2004

and filed Dec. 31, 2003.

In regard to **Independent claim 1,** Fitzmaurice teaches a method comprising:

- Detecting an input (page 1, Para 0020 and page 3, Para 0037-0043 and Figures 7-15). Fitzmaurice teaches detecting a users selection of a menu item.

- Defining a mark at a position relative to the input (Fitzmaurice Figure 8) Fitzmaurice shows a mark relative to the input by showing the line segment extending from the center mark

- Displaying a plurality of selections (Fitzmaurice Figures 5-9 and 12-16). Fitzmaurice shows a plurality of selections.

- Moving a first segment based on the input, wherein the first segment comprises a first end positioned at the mark and a second end distant from the first end (Fitzmaurice Figure 29 and Para 0060) Fitzmaurice teaches the movement of a menu by the user moving the stylus and shows a line segment extending from a given marked menu where the first end is on the icon or menu and the second end is distant from the first end (See figure 8).

- Detecting a location of the second end of the first segment relative to the plurality of selections (Fitzmaurice Figure 7-9) Fitzmaurice teaches detecting the location of the stylus in relation the next menu level options and shows the computer detects the second end of the second my making a selection (Shown in figure 9 and 10).

- Highlighting a particular selection of the plurality of selections when the second end of the first segment is within an area of the particular selection (Fitzmaurice figure 9 and 10). Fitzmaurice teaches highlighting a particular selection when the user moves the stylus over the selection and where the second end of the line segment intersects with the selection to be highlighted (See Para 0034 and 0039)

- Selecting the particular selection based on the second end of the first segment being located within the area of the particular <u>selection</u> of the plurality of selections (Fitzmaurice Figures 7-9) Fitzmaurice shows selecting the function once the user has indicated through input to operate the menu function (See Para 0029).

With respect to **dependent claim 2,** Fitzmaurice teaches the method further comprising displaying a plurality of sub-selections corresponding to the particular selection (Fitzmaurice figures 34-36b and Para 0065-0069) Fitzmaurice displays a plurality of sub-selections that can be displayed on the device.

With respect to **dependent claim 3,** Fitzmaurice teaches the method further comprising highlighting a particular sub-selection from the plurality of sub-selections when a second segment is within an area of the particular sub-selection (Fitzmaurice Para 0072) Easty teaches the sub-selection rock is highlighted when chosen by the user (See Para 0034 and 0039).

With respect to **dependent claim 4,** Fitzmaurice teaches the method the plurality of selections corresponds with a function (Para 0029).

With respect to **dependent claim 5,** Fitzmaurice teaches the method wherein the function is one of a save function, a print function, a play function, and a meeting schedule function (Fitzmaurice Figures 29 and Para 0060).

With respect to **dependent claim 6,** Fitzmaurice teaches the method the plurality of selections corresponds with content (Fitzmaurice Para 0045 and Para 0034) Fitzmaurice teaches the normal file commands can also be on the menu allowing the user to display files that are content on the menu.

With respect to **dependent claim 7,** Fitzmaurice teaches the method wherein the content is one of an audio content, a video content, a document, and a graphic (Fitzmaurice Para 0034). Fitzmaurice teaches the process of displaying files for a drawing tablet where the graphics are bitmaps.

With respect to **dependent claim 8,** Fitzmaurice teaches the method wherein the input is initiated through a pointing device (Fitzmaurice Para 0033).

With respect to **dependent claim 9,** Fitzmaurice teaches the method wherein the input is initiated through a touch screen (Fitzmaurice Para 0033).

With respect to **dependent claim 10,** Fitzmaurice teaches the method wherein the area of the particular selection is defined as an area closer to the particular selection compared to other selections (Figures 17-26). Fitzmaurice shows a variety of configurations were some selections are closer then others.

With respect to **dependent claim 11,** Fitzmaurice teaches the method wherein the area of the particular selection is defined as an area over the particular selection (Fitzmaurice figures 30a – 30b and Para 0061). Fitzmaurice teaches the selection area can be extended to aide the user in selection that is over the selection area.

In regard to **Independent claim 12,** claim 12 reflects the system comprising computer readable instructions used for performing the method steps as claimed in claim 1 and is rejected along the same rationale.

In regard to **Independent claim 13,** Fitzmaurice teaches a method comprising:

- Detecting an input (page 1, Para 0020 and page 3, Para 0037-0043 and Figures 7-15). Fitzmaurice teaches detecting a users selection of a menu item.

- Displaying a plurality of selections (Fitzmaurice Figures 5-9 and 12-16). Fitzmaurice shows a plurality of selections.

- <u>Displaying a first segment comprising a first end and second end distant from the first end, the second end being rotationally moveable about the first end</u> ((Fitzmaurice Figures 5-9 and Para 0037-0044). Fitzmaurice teaches a marker selection menu that will give a rotational effect on the interface as the user moves from selection to selection. For example, the user can select the center and then move to the east and before selecting they could move the stylus to the north position and the segment will rotate about the center input and then move to the north position.

- Detecting <u>the</u> first segment within an area of a particular selection from the plurality of selections (Fitzmaurice Figures 5-9) Fitzmaurice shows the system detecting the segment in the area of the selections by showing the line has crossed the selection as shown in figure 10.

- Highlighting the particular selection based on the first segment located within the area of the particular selection (Fitzmaurice figure 9 and 10). Fitzmaurice teaches highlighting a particular selection when the user moves the stylus over the selection and where the second end of the line segment intersects with the selection to be highlighted (See Para 0034 and 0039)

- Displaying a plurality of sub-selections corresponding to the particular selection (Fitzmaurice figure 5-9) Fitzmaurice displays a plurality of sub-selections corresponding to the first selection.

With respect to **dependent claim 14,** Fitzmaurice teaches the method further comprising selecting the particular selection based, in part, on the first segment within the area of the

particular selection (Fitzmaurice Figure 9 and 10).

With respect to **dependent claim 15,** Fitzmaurice teaches the method further comprising highlighting a particular sub-selection from the plurality of sub-selections when a second segment is within an area of the particular sub-selection, wherein the second segment comprises a first end and second distant end from the first end with first and second segment being positioned at the second end of the first segment (Fitzmaurice Para 0072) teaches the sub-selection rock is highlighted when chosen by the user (See Para 0034 and 0039). Fitzmaurice also shows a plurality of configurations where the selection segment extends from the first menu selection to the second and subsequent menu selections (See figures 36a and 36B).

With respect to **dependent claim 16,** Fitzmaurice teaches the method further comprising rotating the second end of the segment over the plurality of sub-selections, where the second end of the second segment is rotationally moveable about the second end of the first segment (Fitzmaurice Para 0065 and Figures 5-9). Fitzmaurice teaches that the user makes a stroke movement on the display after touching a first menu item. Then the second level menu is shown to the user and the user by way of a selection stroke chooses the menu. The user has options for each level and as in the first menu selection the stroke path will be rotated from the selection point at each level entry point.

In regard to **Independent claim 17,** Fitzmaurice teaches a system, comprising:

- An input detection module to detect an input through an input device (page 1, Para 0020 and page 3, Para 0037-0043 and Figures 7-15). Fitzmaurice teaches detecting a users selection of a menu item.

- A render module to render images for displaying a plurality of selections, a mark at a position relative to the input and a segment having a first end positioned at the mark and

a second end distant from the first end, the segment controlled by the input and used for selecting a particular selection from the plurality of selections, wherein the render module selectively highlights the particular selection based on the input and the location of second end of the segment (Fitzmaurice Figures 5-9 and Para 0034-0045 and Para 0072). Fitzmaurice teaches a line segment is placed on the interface when the user place a stroke input on the menu and moves to the selected item (See figure 8). The mark is relative to the input and has a first and second end. The first end is where the user first made a menu selection and the second end is placed over the intended second selection by the user (See figure 10). Fitzmaurice teaches the menu items are highlighted when selected and show rollovers when the user places a cursor over them. Fitzmaurice additionally teaches displaying the menus in different colors or contrasts, which is a form of highlighting to the user.

With respect to **dependent claim 18,** Fitzmaurice teaches the system wherein the render module displays a plurality of sub-selections based on the particular selection (Fitzmaurice Figures 5-9). Fitzmaurice displays a plurality of sub-selections corresponding to the first selection.

With respect to **dependent claim 19,** Fitzmaurice teaches the system wherein the input device is a pointing device (Para 0033).

With respect to **dependent claim 20,** Fitzmaurice teaches the system wherein the input device is a touch screen device (Para 0033).

With respect to **dependent claim 21,** Fitzmaurice teaches the system wherein the input detection module provides the input to the render module wherein the input rotates the segment over the plurality of selections (Fitzmaurice Para 0060).

In regard to **Independent claim 22,** claim 22 reflects the computer readable medium

comprising computer readable instructions used for performing the method steps as claimed

in claim 1 and is rejected along the same rationale.

With respect to **dependent claim 23,** Fitzmaurice teaches the **method** wherein the

highlighting the particular selection of the plurality of selections comprises at least one of:

Fitzmaurice teaches displaying the particular selection with a different color than other

selections of the plurality of selections (See Para 0063) Fitzmaurice states the following:

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During this wait period  conventional display operations
occur such as tracking the position of the stylus and
positioning a cursor under the stylus, and highlighting a
control when the cursor/stylus passes over (or close to)
the control.
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Therefore, the skilled artisan would recognize that highlighting a selection as the user places

the stylus over it is a form of coloring and distinguishing from the other selections as the user

did not place the stylus over those selections simultaneously. The purpose of the highlighting

is a process of emphasizing for the user where the input device is in relation to other objects

on the screen and to alert the user that a selection is going to be made.

**It is noted that any citation to specific, pages, columns, lines, or figures in the prior art
references and any interpretation of the references should not be considered to be limiting
in any way. A reference is relevant for all it contains and may be relied upon for all that it
would have reasonably suggested to one having ordinary skill in the art. In re *Heck*, 699
F.2d 1331, 1332-33,216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re *Lemelson*, 397 F.2d
1006,1009, 158 USPQ 275, 277 (CCPA 1968)).**

Response to Arguments

Applicant's arguments filed 06/19/2007 have been fully considered but they are not persuasive.

Applicant's argument that the Fitzmaurice does not disclose highlighting a selected object

Applicant argues that the cited sections of the Fitzmaurice reference do not teach a highlighting

process as recited in claim 1 because the applicant interprets the prior art as selecting but not

highlighting the target (See arguments page 8, middle).

The Examiner disagrees.

The applicant's arguments are substantially similar to previous arguments presented in the after

final amendment submitted 05/21/2007. The advisory action mailed 06/05/2007 addressed the

arguments and is duplicated herein for convenience:

The applicant's request for reconsideration has been carefully reviewed and is not persuasive for the following reasons: The examiner refers the final office action page 8, (bottom) where the examiner cited the MPEP that teaches that an entire reference cited is considered relevant to the rejection and not just the cited sections. In regard to claim 1, Applicant argues, that the prior art of Fitzmaurice does not teach that a target component is not highlighted. The Examiner refers to the present application specification as intrinsic evidence as to 'what the applicant interprets as highlighting. The following definition was relied upon by the examiner" [0084] In Block 840, one of the selections displayed in the Block 820 is highlighted based on the location of the first segment. For example, if the first segment is rotated towards a particular selection, then this particular selection is highlighted. In one embodiment, highlighting a particular selection is accomplished by enlarging this selection. In another embodiment, highlighting a particular selection is accomplished by changing the color of this selection. In yet another embodiment, highlighting a particular selection is accomplished by flashing this selection on and off." Therefore, Fitzmaurice expressly teaches that the menu is displayed with a slight change in the color or contrast of the portion of the interface in shadow (See Para 0034). Moreover, Fitzmaurice teaches displaying the menu in a semi-transparent fashion. The Examiner notes to display items in a display with transparency the items are highlighted by changing the color as a value for transparency is a means for coloring the item. (See Para "[0024] The entire command corner (or some portion of it) can be displayed in a semi-transparent fashion to see the underlying application data and minimize visual distraction.) Therefore, the Examiner relied on the intrinsic definition in the present application specification while interpreting the prior art and applied a reasonable interpretation of the claim.

Moreover, Fitzmaurice expressly teaches the process of highlighting an object as the user makes

a selection (See Para 0063, middle.) The Examiner relied on Para 0034 and 0039 and figures 9

and 10. In the discussion relating to figure 4 and 5 (Para 0034) Fitzmaurice expressly teaches the

interface utilizes Icons to display commands on the interface. It is known in the common art that

Icons can comprise image, colors, scripts, and a variety of other commands to be processed on

the interface. Further, Fitzmaurice teaches the process of displaying the interface with a slight

change of color or shadow in the position shown. Additionally, Fitzmaurice teaches the command

corner can be semi-transparent or blend/filter with the content shown as a slight blue tint. Finally,

Fitzmaurice detects the type of input event such as a tap, dwell, or gesture and the interface

responds to each event with the corresponding interface mechanism. Therefore, if the user were

to perform a specific gesture and a popup occurs the command or selection would be

emphasized and enlarged when compared to other selection items as the specific gesture relates

to a specific command (See Para 0065). Fitzmaurice teaches the marking menu selection shown

the stroke on the screen as shown in figure 8.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,618,063 to Kurtenbach et al. issued Sept. 9, 2003, and discloses and marker

menu interface that allows for user selection of menu items when the user moves the stylus in a

given direction from the initial entry point where a line segment is displayed on the interface to

show the selection path.

        Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Steven B. Theriault whose telephone number is (571) 272-5867. The

examiner can normally be reached on M-F 7:30 - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where

this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SBT

**WEILUN LO
SUPERVISORY PATENT EXAMINER**